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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR           | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|--------------------------------|---------------------|------------------|
| 09/276,277   | 03/25/1999  | WILLIAM CARTER CARROLL BULLARD | 10360/022001        | 1888             |
| 27820  | 7590        | 01/20/2004                     |                     |                  |
| WITHROW & TERRANOVA, P.L.L.C.<br>P.O. BOX 1287<br>CARY, NC 27512 |             |                                |                     |                  |
| EXAMINER<br>RUDY, ANDREW J                                       |             |                                |                     |                  |
| ART UNIT   |             | PAPER NUMBER                   |                     |                  |
| 3627   |             |                                |                     |                  |

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n No.

09/276,277

Applicant(s)

BULLARD, WILLIAM CARTER  
CARROLL

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4/3/03; 6/2&4/03; 9/22/03 & 11/3/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-15, 19-22, 24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-15, 19-22, 24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing corrections were received on April 3, 2003. These drawings are acceptable.
2. Applicant's Declaration dated September 3, 2002 and received April 3, 2003 has been reviewed.
3. The previous 35 USC 112 rejection is withdrawn pursuant to Applicant's April 3, 2003 Amendment.

### ***Claim Rejections - 35 USC § 103***

4. Claims 2-15, 19-22, 24 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen, US 6,452,915.

Jorgensen discloses a system, e.g. Figs. 5b, 5c, 7, comprising an internet protocol flow network layer 408, 429 using internet control message protocol and transmission control protocol 410 to perform error control functions where data is carried. Inherently a processor and memory 104 including a network packet carrying the data would be included the network. To determine

and correlate and use results thereof for Jorgensen would have been obvious to one of ordinary skill in the art. Doing such would use well known data analysis functions that are common knowledge in the art. To provide a computer program to execute the system of Jorgensen would have been an obvious to one of ordinary skill in the art. Applicant's intended use claim language, e.g. claim "for an accounting application" and claim 19, line 2 "for an accounting application" do not provide positive recitations that define patentable subject matter.

Applicant's REMARKS have been reviewed, but are not convincing. It is incumbent upon Applicant to secure a provisional application to contest material or lack thereof with regards to priority status. It is not the Examiner's function to provide such. As is, Jorgensen is prior art. As Applicant has not argued any further merits of the previous rejection, The Examiner is not moved to remove the art rejection.

5. Applicant's June 2 & 4, 2003; September 22, 2003 and November 3 2003 Information Disclosure Statements (IDS's) has been reviewed. It is noted that item E does not qualify as prior art. See the attached initialed IDS's.

6. Further pertinent references of interest are noted on the attached PTO-892

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***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

If attempts to reach the examiner by telephone are unsuccessful, Mr. Robert Olszewski, Supervisory Primary Examiner, can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*Andrew Joseph Rudy*

*Robert P. Olszewski 1/7/04*

ROBERT P. OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600